

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 161

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO THE TAX ON MOTOR FUELS; AMENDING SECTION 63-2402, IDAHO CODE, TO
PROVIDE THAT THE MOTOR FUELS TAX APPLIES TO DYED FUELS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2402, Idaho Code, be, and the same is hereby
amended to read as follows:

63-2402. IMPOSITION OF TAX UPON MOTOR FUEL. (1) A tax is hereby imposed
upon the distributor who receives motor fuel in this state. The legal inci-
dence of the tax imposed under this section is borne by the distributor. The
tax becomes due and payable upon receipt of the motor fuel in this state by
the distributor unless such tax liability has previously accrued to another
distributor pursuant to this section. The tax shall be imposed without re-
gard to whether use is on a governmental basis or otherwise, unless exempted
by this chapter.

(2) The tax imposed in this section shall be at the rate of twenty-five
cents (25¢) per gallon of motor fuel received. This tax shall be subject to
the exemptions, deductions and refunds set forth in this chapter.

(3) Nothing in this chapter shall prohibit the distributor who is li-
able for payment of the tax imposed under subsection (1) of this section from
including as part of the selling price an amount equal to such tax on motor
fuels sold or delivered by such distributor; provided however, that nothing
in this chapter shall be deemed to impose tax liability on any person to whom
such fuel is sold or delivered except as provided in subsection (6) of this
section.

(4) Any person coming into this state in a motor vehicle may transport
in the manufacturer's original tank of that vehicle, for his own use only,
not more than thirty (30) gallons of motor fuel for the purpose of operating
that motor vehicle, without complying with the provisions of this chapter.

(5) The tax imposed in this section does not apply to:

~~(a) Special fuels that have been dyed at a refinery or terminal under
the provisions of 26 U.S.C. section 4082 and regulations adopted there-
under, or under the clean air act and regulations adopted thereunder ex-
cept as provided in section 63-2425, Idaho Code; or~~

~~(b) Special fuel dispensed into a motor vehicle which uses gaseous spe-
cial fuels and which displays a valid gaseous special fuels permit under
section 63-2424, Idaho Code; or~~

~~(c) Special fuels that are gaseous special fuels, as defined in sec-
tion 63-2401, Idaho Code, except that part thereof that is delivered
into the fuel supply tank or tanks of a motor vehicle; or~~

~~(d) Aircraft engine fuel subject to tax under section 63-2408, Idaho
Code.~~

1 (6) Should the distributor of first receipt be exempt from imposition
2 of the tax as a matter of federal law, by virtue of its status as a feder-
3 ally-recognized Indian tribe or member of such tribe, such distributor shall
4 not bear the tax's legal incidence and must pass the tax through as part of
5 the selling price of the fuel. Such distributor shall retain the administra-
6 tive obligation to remit the tax, and such obligation shall accrue upon re-
7 ceipt in accordance with subsection (1) of this section. Should a retailer
8 otherwise subject to the tax be exempt from imposition of the tax as a mat-
9 ter of federal law, by virtue of its status as a federally-recognized Indian
10 tribe or member of such tribe, the retailer shall not bear the tax's legal in-
11 cidence and must pass the tax through as part of the selling price of the fuel
12 to the consumer, unless such consumer is exempt from imposition of the tax
13 as a matter of federal law, by virtue of its status as a federally-recognized
14 Indian tribe or membership in such tribe, and the retailer shall be entitled
15 to claim a credit against taxes otherwise due and owing under this chapter or
16 a tax refund, together with interest, attributable to the fuel purchased by
17 such consumer.